

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte HIROSHI HARUKI, TOSHIKO NAGAYAMA, EIICHI HATTORI
and TADASHI AKUTAGAWA



Appeal No. 2006-1070
Application No. 08/971,903

HEARD: May 9, 2005

Before CRAWFORD, LEVY, and NAPPI, Administrative Patent Judges.
CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 to 6, 8 and 10 to 20, which are all of the claims pending in this application. Claims 7 and 9 have been cancelled.

The appellants' invention is a computer-related product user management and service system (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

THE PRIOR ART

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Fawcett	5,845,077	Dec. 1, 1998
Todd et al. (Todd)	5,867,714	Feb. 2, 1999

THE REJECTION

Claims 1 to 6, 8 and 10 to 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Todd in view of Fawcett.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the answer (mailed August 1, 2005) for the examiner's complete reasoning in support of the rejections, and to the brief (filed May 19, 2005) and reply brief (filed October 5, 2005) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

The examiner is of the opinion that Todd describes the invention as claimed except that Todd does not explicitly describe transmitting the user information to

another vendor that sells products that may be of interest to users of the particular software product, as recited in claim 1. In the examiner's view, as Todd describes that a user's computer may contain software from a variety of vendors, providing user information to vendors is implied. The examiner further relies on the disclosure of Fawcett that describes a computer update service that provides updates of a wide variety of computer software. The examiner concludes:

. . . it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the tracking information in Todd to such a central update service center which contains software products and files from vendors other than the vendor which developed the software application currently being tracked on the user's system. One would have been motivated to present this information to such a vendor which carries software products from more than one software developer (vendor) in order to increase the range of targeted advertisements being presented by Todd, giving the user a more comprehensive choice of upgrades, help files, wizards, and new replacement software products [answer page 5].

We agree with the appellants that:

. . . one of ordinary skill in the art would find no suggestion in Todd et al. of transmitting user registration information to anyone other than the manufacturer of user's computer. The mere fact that the user's computer stores software from multiple vendors, as discussed on page 4, lines 11-19 of the August 16, 2004 Office Action, does not create an implication that operations are performed that are not mentioned [substitute brief at page 4].

While the examiner is correct that Fawcett describes a computer updating system that includes a variety of software products, Fawcett does not describe or suggest that user information is sent to a vendor that sells products that may be of interest to a user.


As there is no disclosure or suggestion of transmitting user information to another vendor that sells products that may be of interest to users of the particular software product, we will not sustain this rejection as it is directed to claim 1 and claims 2 to 6 dependent thereon. We will likewise not sustain this rejection as it is directed to claims 10 to 20 as each of these claims requires that user information is transmitted to a vendor different from the software product vendor.

The decision of the examiner is reversed.


REVERSED



MURRIEL E. CRAWFORD
Administrative Patent Judge



STUART S. LEVY
Administrative Patent Judge



ROBERT E. NAPPI
Administrative Patent Judge

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